

NEW YORK STATE SUPREME COURT
NEW YORK COUNTY

-----X

Index No.: _____

T.B., J.C., Michael Cusumano, P.C., B.D., Jonathan Drechsler,
D.F., E.F., Joseph Falzon, A.G., Arnold Glim, J.G., R.G., E.H.,
R.L., E.O., R.O., F.P., V.P., and James Sullivan,

Date Filed: _____

SUMMONS

Plaintiffs,

Plaintiff designates New York
County as the place of trial.

-against-

MADISON SQUARE BOYS & GIRLS CLUB,

The basis of venue is Defendant's
residence.

Defendant.

Child Victims Act Proceeding
22 NYCRR 202.72

-----X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: September 23, 2019

Respectfully Yours,
MARSH LAW FIRM PLLC

By  _____

James R. Marsh

Jennifer Freeman

Robert Lewis

Katie Shipp (*pro hac vice forthcoming*)

jamesmarsh@marsh.law


jenniferfreeman@marsh.law

robertlewis@marsh.law

katieshipp@marsh.law

151 East Post Road, Suite 102
White Plains, NY 10601-5210
Phone: 212-372-3030

PFAU COCHRAN VERTETIS AMALA PLLC

By 
Michael T. Pfau (*pro hac vice forthcoming*)
Jason P. Amala (*pro hac vice forthcoming*)
Anelga Doumanian
michael@pcvalaw.com
jason@pcvalaw.com
adoumanian@pcvalaw.com
403 Columbia St.
Suite 500
Seattle, WA 98104
Phone: 206-451-8260

Attorneys for Plaintiff

NEW YORK SUPREME COURT NEW YORK
NEW YORK COUNTY

T.B., J.C., Michael Cusumano, P.C., B.D., Jonathan Drechsler,
D.F., E.F., Joseph Falzon, A.G., Arnold Glim, J.G., R.G.,
E.H., R.L., E.O., R.O., F.P., V.P., and James Sullivan,

Index No. _____

Plaintiffs,

v.

MADISON SQUARE BOYS
& GIRLS CLUB,

COMPLAINT

**Child Victims Act
Proceeding
22 NYCRR 202.72**

Jury Trial Demanded

Defendant.

Plaintiffs T.B., J.C., Michael Cusumano, P.C. Jonathan Drechsler, D.F., E.F., Joseph
Falzon, A.G., Arnold Glim, J.G., R.G., E.H., R.L., E.O., R.O., F.P., V.P., and James Sullivan, by
and through their attorneys, Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC,
allege for their complaint the following:

I. PRELIMINARY STATEMENT

1. For decades, Madison Square Boys Club (MSBC) served the needs of thousands of boys in New York City, proclaiming that it provided boys with a “positive place to belong” in order “to keep boys busy and out of trouble.” *Madison Square Memoir*, Irving Harris p. 10.

2. Between 1950 and 1980, however, everything was not positive, orderly, or safe for children at the boys-only New York City MSBC Clubhouse (Clubhouse) in the Kipps Bay neighborhood of Manhattan. MSBC failed to properly supervise Clubhouse personnel, permitted staff unfettered and unsupervised access to children, failed to address sexual abuse which was occurring in plain sight, and exposed boys to danger.

3. These conditions allowed Basketball Coach and Gym Director Nicholas Antonucci, known as “Lefty,” and “pool doctor” Dr. Reginald Archibald—among others--to grossly and repeatedly sexually abuse Plaintiffs when they were minor members of MSBC.

II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72

4. This complaint is filed pursuant to the Child Victims Act (CVA), CPLR 214-g, and 22 NYCRR 202.72. The CVA opened an historic one-year, one-time window for victims and survivors of historic childhood sexual abuse in the State of New York to pursue lapsed claims. While they were minors, the Plaintiffs were victims of one or more criminal sex acts in the State of New York including but not limited to NY Penal Law 130.20, 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.52, 130.55, 130.60, 130.65, 130.65-a, 130.66, 130.67, 130.70. Prior to the passage of the CVA, each Plaintiff’s claims were time-barred the day they turned 22 years old. The enactment of the CVA allows Plaintiffs to pursue restorative justice in New York State.

III. PARTIES

5. Since such criminal violation is the basis for this action, the Plaintiffs are entitled to the protection of Civil Rights Law 50-b and are contemporaneously filing a motion by order to show cause asking this Court for permission to proceed using a pseudonym.

6. Plaintiff T.B. currently resides in the state of New York. While he was a minor, T.B. was a member of MSBC where he was sexually abused by Archibald.

7. Plaintiff J.C. currently resides in the state of New York. While he was a minor, J.C. was a member of MSBC where he was sexually abused by Archibald.

8. Plaintiff Michael Cusumano currently resides in the state of New York. While he was a minor, Michael was a member of MSBC where he was sexually abused by Archibald.

9. Plaintiff P.C. currently resides in the state of New Jersey. While he was a minor, P.C. resided in the state of New York and was a member of MSBC where he was sexually abused by Archibald.

10. Plaintiff B.D. currently resides in the state of Texas. While he was a minor, B.D. was a member of MSBC where he was sexually abused by Lefty.

11. Plaintiff Jonathan Dreschler resides in the state of Hawaii. While he was a minor, Jonathan was a member of MSBC where he was sexually abused by Archibald.

12. Plaintiff D.F. currently resides in the state of New York. While he was a minor, D.F. was a member of MSBC where he was sexually abused by Lefty and Archibald.

13. Plaintiff E.F. currently resides in the state of New York. While he was a minor, E.F. was a member of MSBC where he was sexually abused by Archibald.

14. Plaintiff Joseph Falzon currently resides in the state of New York. While he was a minor, Joseph was a member of MSBC where he was sexually abused by Archibald.

15. Plaintiff A.G. currently resides in the state of Arizona. While he was a minor, A.G. resided in the state of New York and was a member of MSBC where he was sexually abused by Archibald.

16. Plaintiff Arnold Glim currently resides in the state of Vermont. While he was a minor, Arnold resided in the state of New York and was a member of MSBC where he was sexually abused by Archibald.

17. Plaintiff J.G. currently resides in the state of New York. While he was a minor, J.G. was a member of MSBC where he was sexually abused by Lefty and Archibald.

18. Plaintiff R.G. currently resides in the state of New York. While he was a minor, R.G. was a member of MSBC where he was sexually abused by Archibald.

19. Plaintiff E.H. currently resides in the state of Florida. While he was a minor, E.H. resided in the state of New York and was a member of MSBC where he was sexually abused by Archibald.

20. Plaintiff R.L. currently resides in the state of Connecticut. While he was a minor, R.L. resided in the state of New York and was a member of MSBC where he was sexually abused by Lefty and Archibald.

21. Plaintiff E.O. currently resides in the state of New York. While he was a minor, R.O. was a member of MSBC where he was sexually abused by Archibald.

22. Plaintiff R.O. currently resides in the state of New York. While he was a minor, R.O. was a member of MSBC where he was sexually abused by Archibald.

23. Plaintiff F.P. currently resides in the state of California. While he was a minor, F.P. resided in the state of New York and was a member of MSBC where he was sexually abused by Archibald.

24. Plaintiff V.P. currently resides in the state of New York. While he was a minor, V.P. was a member of MSBC where he was sexually abused by Archibald.

25. Plaintiff James Sullivan currently resides in the state of Florida. While he was a minor, James resided in the state of New York and was a member of MSBC where he was sexually abused by Lefty and Archibald.

26. MSBC was founded in 1884. On December 20, 1946, MSBC was incorporated in New York State as "Madison Square Boys Club, Inc."

27. On February 19, 1985, "Madison Square Boys Club, Inc." changed its name to "Madison Square Boys & Girls Club, Inc."

28. At all relevant times, and despite the name change, in all other respects MSBC was a duly registered domestic not-for-profit corporation in the State of New York with a principal location in New York County, New York.

29. Presently, the Madison Square Boys & Girls Club, Inc. has five Clubhouses located throughout New York City including a new clubhouse in Harlem and other locations in the Bronx and Brooklyn.

IV. VENUE

27. Venue is proper because MSBC is a non-profit organization authorized to transact business in New York with its principal office located in New York, New York.

28. Venue is proper because New York is the county in which a substantial part of the events or omissions giving rise to each plaintiff's claims occurred.

V. BACKGROUND FACTS

Basic Facts re MSBC

30. MSBC's mission is to "save and enhance the lives of New York City boys... who by reason of economic or social factors are most in need of its services."

<http://www.madisonsquare.org/>

31. In or about 1939, MSBC constructed its first youth-dedicated facility or clubhouse ("Clubhouse") at 312 East 29th Street in the Kipps Bay neighborhood of Manhattan.

32. The Clubhouse operated from 1940, when the swimming pool opened, until the facility was sold in 1999.

33. At all relevant times, the Clubhouse, which was open to boys only, provided a place for neighborhood boys to go and engage in various activities, including basketball, swimming, and other sports.

34. In the early years, the Kipps Bay neighborhood was often dangerous and crime ridden. For many boys, who came from poor families and impoverished neighborhoods surrounding the Clubhouse, MSBC was supposed to be a safe haven.

35. Typically, members joined MSBC at age seven, but many “snuck in” at age 6.

36. Most boys remained members until approximately age sixteen or seventeen.

37. Every year each boy paid a modest membership fee and received a membership card giving him access to the Clubhouse. Clubhouse facilities included a state-of-the-art basketball court, gymnasium, and swimming pool.

38. The Clubhouse featured a dark room in which photographs could be developed.

39. The Clubhouse developed a rooftop where boys played sports and participated in overnight “sleep outs.”

40. The Clubhouse had a locker room where boys changed in and out of their street clothes into t-shirts, shorts, and other athletic wear.

41. At all relevant times, boys were required to swim naked at MSBC. Since the swimming pool was located one flight up from the locker room, boys typically removed their clothes in the locker room, walking through the locker room up to and down from the pool naked.

42. Lefty and Archibald were often present in the locker room when boys were naked.

43. Upon information and belief, Archibald maintained an office in or near the locker room, close to the stairs where naked boys walked up and down to reach the swimming pool.

Basketball Coach “Lefty’s” Sexual Abuse of Children at MSBC

44. At all relevant times until his arrest and incarceration, Lefty was the MSBC Gym Director and Basketball Coach.

45. Lefty grabbed and fondled boys' genitals at the Clubhouse--including but not limited to in the gym, locker room, and swimming pool--in open view of other MSBC members and staff.

46. Lefty also traveled with the boys for MSBC basketball games. During these trips, Lefty grabbed and fondled boys' genitals.

47. Lefty frequently "wrestled" or engaged in "horse play" with boys in the MSBC gym. During such activities, Lefty grabbed and fondled boys' genitals, both on top of and under their clothes.

48. Many MSBC members, including multiple Plaintiffs and staff, observed Lefty inappropriately touching boys, which was often fully visible and in plain sight.

49. Lefty was frequently naked inside the locker room at MSBC.

50. Upon information and belief, Lefty took young boys into a closet or room in or near the gym where he sexually abused them.

51. Lefty organized and hosted "sleep outs" at MSBC during the summer where boys stayed overnight on MSBC's roof.

52. Lefty selected which boys were invited to the sleep outs.

53. Lefty was the only adult present at the sleep outs.

54. At the sleep outs, Lefty removed his clothes and required boys to take off their clothes too.

55. During the sleep outs, Lefty went with the boys to the MSBC pool and swam naked with them.

56. Lefty required the boys to play "games" at the sleep outs.

57. These games included Lefty tying the boys' penises together and throwing cold water on them.

58. If the boys lost a game, Lefty threatened them with a "penalty" which meant that Lefty would seek them out and sexually abuse them.

59. Lefty imposed one special "penalty" on one of the boys – with the other game participants watching, Lefty used ketchup and mustard to masturbate the loser.

60. Lefty directed another boy to climb a totem pole in the nude while other boys watched. As the boy made his way down the pole, Lefty attempted to penetrate the boy's anus with his finger.

61. During the sleep outs, Lefty grabbed and fondled boys' genitals.

62. Upon information and belief, the sexual abuse inflicted by Lefty was readily observable, overt, rampant, and well-known among MSBC members and staff.

63. Upon information and belief, Lefty was eventually arrested, prosecuted, and found guilty of sexually abusing children.

64. Lefty was featured in the notorious 1978 autobiographical memoir, *The Basketball Diaries* by Jim Carroll, consisting of an edited collection of Carroll's diaries from the 1960s, written by him between the ages of twelve and sixteen.

65. In the first chapter of *The Basketball Diaries*, Carroll described his time at MSBC with Lefty as his basketball coach:

The Biddy League is a league for anyone 12 yrs. old or under. I'm actually 12 but my coach Lefty gave me a fake birth certificate. Lefty is a great guy; he picks us up for games in his station wagon and always buys us tons of food. I'm too young to understand about homosexuals but I think Lefty is one. Although he is a great ball player and a strong guy, he likes to do funny things to you like put his hand between your legs. When he did this I got keenly suspicious. I guess I better not tell my mother about it.

...

[H]e...has no hesitation about grabbing guys' balls and cocks in the middle of the team prayer in the huddle before the game.....

Id. at 4, 16.

66. In 1995, *The Basketball Diaries* was adapted to film with Leonardo DiCaprio starring in the lead role of Jim Carroll. Lefty's character was renamed Swifty "to avoid lawsuits" and the actor playing him recounted that Swifty's "problem" is that "he doesn't just want to coach the pretty young men on his team, he wants to molest them." "ON LOCATION: Sex, Drugs, Pick and Roll: Jim Carroll's cult favorite 'The Basketball Diaries' is finally making it to the screen. It seems everyone wanted to star. Leonardo DiCaprio made the cut." *Los Angeles Times*, July 24, 1994.

67. In the film, Swifty sees Jim in the bathroom during basketball practice, molests him by grabbing his genitals, and offers to pay him for sex.

Reginald Archibald's Sexual Abuse of Children at MSBC

68. Upon information and belief, at all relevant times, Archibald was a volunteer, doctor, and/or Board member at MSBC.

69. Archibald was also a professor and physician at the Rockefeller Institute for Medical Research which is now known as Rockefeller University and Rockefeller University Hospital ("RUH").

70. Archibald was often referred to as the "pool doctor" and was regularly present in and around the Clubhouse swimming pool and locker room.

71. At the Clubhouse, Archibald was often accompanied on his voyeuristic perambulations by other men in business attire, watching the naked boys swimming and changing in the locker room.

72. MSBC installed Archibald in an office at the Clubhouse where he had direct, unlimited and unfettered access to boys.

73. During most of Archibald's time at MSBC, his office was located in or near the locker room surrounded by naked boys.

74. MSBC required all boys to be physically examined by Archibald annually.

75. Members were banned from the Clubhouse until Archibald completed his physical examination of each naked boy and marked their membership cards accordingly.

76. MSBC staff herded boys to Archibald's office for their annual physical exams.

77. MSBC staff recruited boys to find other boys whose member cards were not yet marked and bring them to Archibald for a physical examination.

78. Boys were often lined up outside of Archibald's office naked or wearing only a towel waiting for a physical examination.

79. During these examinations, Archibald sexually abused the boys. Archibald fondled their genitals and buttocks, masturbated them, required them to masturbate themselves while he watched, took semen samples, engaged in oral sex, and/or penetrated their anuses with his fingers and/or a metal instrument.

80. During these examinations, Archibald took nude photographs of the boys. These photographs included posing children along a measuring wall and taking close-up photographs of their genitals and buttocks.

81. Archibald kept photography and lighting equipment in his office in plain view.

82. Archibald sometimes displayed images of nude children, including MSBC members, on his MSBC office walls.

83. Upon information and belief, MSBC also required children to be physically examined by Archibald every summer in order to attend MSBC's Clear Pool summer camp ("Clear Pool Camp") in Putnam County, New York.

84. Clear Pool Camp was affiliated with MSBC from 1925-1973. *Madison Square Memoir*, Irving Harris, pp. 10, 124.

85. Not only did Archibald sexually abuse boys during repeated physical examinations, he also routinely conducted random genital body inspections and manipulations in the locker room while purportedly checking for hernias.

86. To conduct these hernia "examinations," Archibald pulled the boys close to him and groped their buttocks, penis, and scrotum.

87. Archibald performed these hernia checks in the locker room in plain sight which were observed by MSBC members and staff.

88. Archibald's actions were well-known at MSBC and boys often referred to him as "Dr. Archi-balls." Boys discussed strategies to avoid Archibald's repeated physical "examinations."

89. Upon information and belief, in or about the 1950s, one of the boys who was recruited to make sure that members were physically examined by Archibald, reported to the MSBC Swim Director that Archibald was touching boys' genitals. The Swim Director told him not to worry about it.

90. Archibald used his position at MSBC to obtain further unfettered access to boys at locations away from MSBC. He often referred members to his medical practice at RUH for participation in a purported "growth study" or for "treatment" where he continued to abuse many of the Plaintiffs.

91. Many of the RUH medical charts for the Plaintiffs specifically identified MSBC as the referring organization.

92. Most of the boys who were members of MSBC came from poor families without access to routine medical care. For some, Archibald was the only doctor they ever saw. Many parents were pleased and relieved, believing that MSBC was providing their sons with proper, free medical care.

93. It is not known whether MSBC participated in a grand jury investigation by the New York County District Attorney's Office in or about 1960 arising out of complaints of Archibald's patients at RUH. *See Report on the Investigation of Dr. Reginald Archibald*, Debevoise & Plimpton LLP (May 23, 2019), p. 12.

VI. STATEMENT OF FACTS AS TO PLAINTIFF T.B.

94. T.B. joined MSBC when he was approximately ten years old.

95. T.B. remained a member of MSBC from approximately 1958 until 1965.

96. During this time, Archibald repeatedly sexually abused T.B. at MSBC.

97. Archibald also used his position at MSBC to refer T.B. for fake "treatment" at RUH, where Archibald sexually abused T.B. multiple times.

98. By reason of MSBC's wrongful acts, T.B. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and T.B. has and/or will become obligated to expend sums of money for medical expenses.

VII. STATEMENT OF FACTS AS TO PLAINTIFF J.C.

99. J.C. joined MSBC when he was approximately 7 years old.
100. J.C. remained a member of MSBC from approximately 1957 until 1964.
101. During this time, Archibald repeatedly sexually abused J.C. at MSBC.
102. Archibald also used his position at MSBC to refer J.C. for fake “treatment” at RUH, where Archibald also sexually abused J.C. multiple times.
103. By reason of MSBC’s wrongful acts, J.C. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and J.C. has and/or will become obligated to expend sums of money for medical expenses.

VIII. STATEMENT OF FACTS AS TO PLAINTIFF MICHAEL CUSUMANO

104. Michael Cusumano joined MSBC when he was approximately 6 years old.
105. Michael remained a member of MSBC from approximately 1950 until 1962.
106. During this time, Archibald repeatedly sexually abused Michael at MSBC.
107. Archibald also used his position at MSBC to refer Michael for fake “treatment” at RUH, where Archibald also sexually abused Michael multiple times.
108. By reason of MSBC’s wrongful acts, Michael sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family

turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Michael has and/or will become obligated to expend sums of money for medical expenses.

IX. STATEMENT OF FACTS AS TO PLAINTIFF P.C.

109. P.C. joined MSBC when he was approximately 11 years old.

110. P.C. remained a member of MSBC from approximately 1979 until 1980.

111. During this time, Archibald sexually abused P.C. at MSBC.

112. By reason of MSBC's wrongful acts, P.C. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and P.C. has and/or will become obligated to expend sums of money for medical expenses.

X. STATEMENT OF FACTS AS TO PLAINTIFF B.D.

113. B.D. joined MSBC when he was approximately 8 years old.

114. B.D. remained a member of MSBC from approximately 1960 until 1970.

115. During this time, Lefty repeatedly sexually abused B.D. at MSBC.

116. By reason of MSBC's wrongful acts, B.D. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family

turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and B.D. has and/or will become obligated to expend sums of money for medical expenses.

XI. STATEMENT OF FACTS AS TO PLAINTIFF JONATHAN DRECHSLER

117. Jonathan Drechsler joined MSBC when he was approximately 8 years old.

118. Jonathan remained a member of MSBC from approximately 1962 until 1966.

119. During this time, Archibald sexually abused Jonathan at MSBC.

120. Archibald also used his position at MSBC to refer Jonathan for fake “treatment” at RUH, where Archibald also sexually abused Jonathan multiple times.

132. By reason of MSBC’s wrongful acts, Jonathan sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Jonathan has and/or will become obligated to expend sums of money for medical expenses.

XII. STATEMENT OF FACTS AS TO PLAINTIFF D.F.

121. D.F. joined MSBC when he was approximately 6 years old.

122. D.F. remained a member of MSBC from approximately 1957 until 1969.

123. During this time, Lefty and Archibald repeatedly sexually abused D.F. at MSBC.

124. Archibald also used his position at MSBC to refer D.F. for fake “treatment” at RUH where Archibald sexually abused D.F. multiple times.

125. By reason of MSBC's wrongful acts, D.F. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and D.F. has and/or will become obligated to expend sums of money for medical expenses.

XIII. STATEMENT OF FACTS AS TO PLAINTIFF E.F.

126. E.F. joined MSBC when he was approximately 10 years old.

127. E.F. remained a member of MSBC from approximately 1956 until 1966.

128. During this time, Archibald repeatedly sexually abused E.F. at MSBC.

129. Archibald also used his position at MSBC to refer E.F. for fake "treatment" at RUH where Archibald sexually abused E.F. multiple times.

130. By reason of MSBC's wrongful acts, E.F. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and E.F. has and/or will become obligated to expend sums of money for medical expenses.

XIV. STATEMENT OF FACTS AS TO PLAINTIFF JOSEPH FALZON

131. Joseph Falzon joined MSBC when he was approximately 8 years old.

132. Joseph remained a member of MSBC from approximately 1957 until 1967.

133. During this time, Archibald repeatedly sexually abused Joseph at MSBC.

134. Archibald also used his position at MSBC to refer Joseph for fake “treatment” at RUH, where Archibald sexually abused Joseph multiple times.

135. By reason of MSBC’s wrongful acts, Joseph sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Joseph has and/or will become obligated to expend sums of money for medical expenses.

XV. STATEMENT OF FACTS AS TO PLAINTIFF A.G.

136. A.G. joined MSBC when he was approximately 9 years old.

137. A.G. remained a member of MSBC from approximately 1964 until 1970.

138. During this time, Archibald repeatedly sexually abused A.G. at MSBC.

139. By reason of MSBC’s wrongful acts, A.G. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and A.G. has and/or will become obligated to expend sums of money for medical expenses.

XVI. STATEMENT OF FACTS AS TO PLAINTIFF ARNOLD GLIM

140. Arnold Glim started visiting MSBC with a friend who was a member of MSBC when he was approximately 14 years old.

141. Arnold visited MSBC multiple times around 1956 and 1957.

142. During this time, Arnold was physically examined by Archibald at MSBC.

143. Archibald used his position at MSBC to refer Arnold for fake “treatment” at RUH, where Archibald sexually abused Arnold multiple times.

144. By reason of MSBC’s wrongful acts, Arnold sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Arnold has and/or will become obligated to expend sums of money for medical expenses.

XVII. STATEMENT OF FACTS AS TO PLAINTIFF J.G.

145. J.G. joined MSBC when he was approximately 9 years old.

146. J.G. remained a member of MSBC from approximately 1955 until 1964.

147. During this time, Lefty and Archibald repeatedly sexually abused J.G. at MSBC.

148. Archibald also used his position at MSBC to refer J.G. for fake “treatment” at RUH where Archibald sexually abused J.G. multiple times.

149. By reason of MSBC’s wrongful acts, J.G. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and

psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and J.G. has and/or will become obligated to expend sums of money for medical expenses.

XVIII. STATEMENT OF FACTS AS TO PLAINTIFF R.G.

150. R.G. joined MSBC when he was approximately 7 years old.

151. R.G. remained a member of MSBC from approximately 1957 until 1962.

152. During this time, Archibald repeatedly sexually abused J.G. at MSBC, and Lefty instructed R.G. to go to Archibald for additional examinations.

153. By reason of MSBC's wrongful acts, R.G. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and R.G. has and/or will become obligated to expend sums of money for medical expenses.

XIX. STATEMENT OF FACTS AS TO PLAINTIFF E.H.

154. E.H. joined MSBC when he was approximately 10 years old.

155. E.H. remained a member of MSBC from approximately 1949 until 1956.

156. During this time, Archibald repeatedly sexually abused E.H. at MSBC, and Lefty and other MSBC staff directed E.H. to go to Archibald's office for physical examination.

157. By reason of MSBC's wrongful acts, E.H. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and E.H. has and/or will become obligated to expend sums of money for medical expenses.

XX. STATEMENT OF FACTS AS TO PLAINTIFF R.L.

158. R.L. joined MSBC when he was approximately 6 years old.

159. R.L. remained a member of MSBC from approximately 1959 until 1972.

160. During this time, Lefty and Archibald repeatedly sexually abused R.L. at MSBC

161. By reason of MSBC's wrongful acts, R.L. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and R.L. has and/or will become obligated to expend sums of money for medical expenses.

XXI. STATEMENT OF FACTS AS TO PLAINTIFF E.O.

162. E.O. joined MSBC when he was approximately 8 years old.

163. E.O. remained a member at MSBC from approximately 1948 until 1958.

164. During this time, Archibald repeatedly sexually abused E.O. at MSBC.

133. By reason of MSBC's wrongful acts, E.O. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and E.O. has and/or will become obligated to expend sums of money for medical expenses.

XXII. STATEMENT OF FACTS AS TO PLAINTIFF R.O.

165. R.O. joined MSBC when he was approximately 6 years old.

166. R.O. remained a member at MSBC from approximately 1955 until 1959.

167. During this time, Archibald repeatedly sexually abused R.O. at MSBC.

168. By reason of MSBC's wrongful acts, R.O. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and R.O. has and/or will become obligated to expend sums of money for medical expenses.

XXIII. STATEMENT OF FACTS AS TO PLAINTIFF F.P.

169. F.P. joined MSBC when he was approximately 9 years old.

170. F.P. remained a member at MSBC from approximately 1954 until 1965.

171. During this time, Archibald repeatedly sexually abused F.P. at MSBC.

172. Archibald used his position at MSBC to refer F.P. for fake “treatment” at RUH where Archibald sexually abused F.P. multiple times.

173. By reason of MSBC’s wrongful acts, F.P. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and F.P. has and/or will become obligated to expend sums of money for medical expenses.

XXIV. STATEMENT OF FACTS AS TO PLAINTIFF V.P.

174. V.P. joined MSBC when he was approximately 10 years old.

175. V.P. remained a member of MSBC from approximately 1954 until 1965.

176. During this time, Archibald repeatedly sexually abused V.P. at MSBC.

177. Archibald also used his position at MSBC to refer V.P. for fake “treatment” at RUH where Archibald sexually abused V.P. multiple times.

178. By reason of MSBC’s wrongful acts, V.P. sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and V.P. has and/or will become obligated to expend sums of money for medical expenses.

XXV. STATEMENT OF FACTS AS TO PLAINTIFF JAMES SULLIVAN

179. James Sullivan joined MSBC when he was approximately 11 years old.

180. James remained a member at MSBC from approximately 1958 until 1960.

181. During this time, Lefty and Archibald repeatedly sexually abused James at MSBC.

182. Archibald also used his position at MSBC to refer James for fake “treatment” at RUH where Archibald sexually abused James multiple times.

183. By reason of MSBC’s wrongful acts, James sustained personal physical injury and physical sickness, including emotional distress originating from and attributable to that personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and James has and/or will become obligated to expend sums of money for medical expenses.

XXVI. CAUSES OF ACTION**FIRST CAUSE OF ACTION
NEGLIGENCE**

184. Plaintiffs re-allege the paragraphs set forth above and below.

185. During the relevant periods outlined in this complaint, Plaintiffs were between the ages of 6 and 18.

186. MSBC had care, custody, and control of Plaintiffs while they were on its premises where they interacted with Lefty and Archibald.

187. MSBC held itself out as a safe haven for boys, one which would keep them out of trouble and away from unsafe and unhealthy activities and environments.

188. Parents reasonably believed that their children would be safe and secure while in MSBC's care, custody, and control.

189. MSBC approved of Lefty and Archibald's services and provided both with regular, ongoing access to, and one-on-one interaction with Plaintiffs, often while they were naked.

190. MSBC installed Lefty as the Gym Director and Basketball Coach, with frequent, unsupervised interactions with naked boys in the locker room, gym and other locations in the Clubhouse.

191. MSBC allowed Lefty to host sleep outs where he was the only adult present with young boys overnight at MSBC.

192. MSBC afforded Archibald the privilege of being a MSBC board member, volunteer and doctor, giving him virtually unfettered access to the Club and the members.

193. MSBC provided Archibald with his own office in the Clubhouse, where he sexually abused Plaintiffs and other MSBC members on a regular and ongoing basis.

194. MSBC willingly and knowingly placed Plaintiffs in extremely vulnerable positions vis-a-vis Archibald, by requiring all members to have physical examinations conducted by Archibald annually and before going to the Club's summer camp.

195. Without Archibald's clearance, boys could not participate in Club activities or go to summer camp. Hence, a one-on-one private encounter with Archibald in the nude was a necessary prerequisite to any engagement at the Club.

196. These circumstances created a special relationship between MSBC and Plaintiffs and imposed on MSBC a duty bound to exercise the degree of care that a prudent parent would exercise in supervising those with access to these young boys while the boys were in its custody or control.

197. During the relevant period, while Plaintiffs were in the custody and control of MSBC, Lefty sexually abused some of the Plaintiffs and Archibald sexually abused all of them.

198. Those acts of sexual abuse qualify as predicate crimes grounding the extension or revival of claims under the recently enacted Child Victims Act (L. 2019, c. 11).

199. During the relevant period, MSBC acted through its board of trustees, employees, volunteers, and other agents, and is vicariously liable as principal for the actions those agents took within the scope of their employment or other agency authority, whether actual or apparent.

200. MSBC had actual or constructive notice that Lefty and Archibald had a propensity to sexually abuse and exploit children before they committed one or more acts of sexual abuse against Plaintiffs.

201. The circumstances outlined in this complaint required MSBC, at a minimum, to thoroughly investigate Lefty and Archibald and ensure that they were not engaging in sexual abuse and exploitation of child members.

202. It was entirely foreseeable that Lefty and Archibald by their association with MSBC had the means, conditions, and ability to sexually abuse and exploit Plaintiffs.

203. Given the profligacy and notoriety of Lefty and Archibald's sexual abuse and exploitation of child patients at MSBC, even a cursory investigation and supervision would have revealed ample evidence of abuse.

204. MSBC failed to conduct an adequate investigation and engaged in inadequate supervision.

205. At all relevant times, Plaintiffs and their parents believed that MSBC would exercise such care as would a parent of ordinary prudence in comparable circumstances when it assumed supervision, care, custody, and control of Plaintiffs.

206. MSBC failed to exercise the degree of care a parent of ordinary prudence would exercise by (i) failing to take reasonable steps to supervise Lefty, Archibald, and Plaintiffs, (ii) failing to fire or dismiss Lefty and Archibald, (iii) failing to train the staff and volunteers at MSBC to recognize and prevent child sexual abuse, (iv) failing to warn Plaintiffs of the unreasonable risk posed by Lefty and Archibald, (v) failing to take reasonable steps to protect Plaintiffs, (vi) failing to create a safe environment, and (vii) creating an environment posing an unreasonable risk of sexual abuse and other harm to Plaintiffs.

207. In breaching these duties, MSBC acted willfully and in conscious disregard of any need to protect Plaintiffs from Lefty and Archibald.

208. It is reasonably foreseeable that MSBC's failure to exercise such care as would a parent of ordinary prudence in comparable circumstances would result in sexual abuse and other severe harm to Plaintiffs.

209. By reason of MSBC's wrongful acts, Plaintiffs sustained personal physical injury and physical sickness, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to the nervous system, physical pain and mental anguish, and emotional and psychological damage, and upon information and belief, some or all of these injuries are of a

permanent and lasting nature, and Plaintiffs have and/or will become obligated to expend sums of money for medical expenses.

SECOND CAUSE OF ACTION
OUTRAGEOUS CONDUCT CAUSING EMOTIONAL DISTRESS

210. Plaintiffs re-allege the paragraphs set forth above and below.

211. As detailed above and below, MSBC's reckless conduct in failing to protect Plaintiffs from sexual predation was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates utter disregard of the consequences that follow, specifically, the repeated sexual abuse by Lefty and Archibald of Plaintiffs and many others.

212. Each Plaintiff suffered severe emotional distress, that is, emotional distress that is of such intensity and duration that no reasonable person should be expected to endure it.

213. There is no excuse or justification for MSBC's conduct.

214. It was reasonably foreseeable that such conduct would result in the sexual abuse of or other harm to Plaintiffs.

215. The outrageous conduct proximately caused Plaintiffs' sexual abuse and exploitation. As a result, Plaintiffs have suffered extreme and permanent emotional distress with physical manifestations, interference with normal development, past and future expenses for medical and psychological treatment, loss of enjoyment of life, and other losses to be described and proved at trial of this matter.

XXVII. NO APPORTIONMENT OF LIABILITY

216. One or more of the exemptions set forth in CPLR 1601 and 1602 applies, thus precluding Defendant from limiting its liability by apportioning some portion of total liability to any joint tortfeasor.

XXVIII. PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand judgment against defendant for their causes of action, together with compensatory and punitive damages, and the interest, cost and disbursements pursuant to their causes of action and such other and further relief as the Court deems just and proper.

Dated: September 23, 2019
New York, New York

MARSH LAW FIRM PLLC

By 

James R. Marsh

Jennifer Freeman

Robert Lewis

Katie Shipp (*pro hac vice forthcoming*)

jamesmarsh@marsh.law

jenniferfreeman@marsh.law

robertlewis@marsh.law

katieshipp@marsh.law

151 East Post Road, Suite 102

White Plains, NY 10601-5210

Phone: 212-372-3030

PFAU COCHRAN VERTETIS AMALA PLLC

By 

Michael T. Pfau (*pro hac vice forthcoming*)

Jason P. Amala (*pro hac vice forthcoming*)

Anelga Doumanian

michael@pcvalaw.com

jason@pcvalaw.com

adoumanian@pcvalaw.com

403 Columbia St.

Suite 500

Seattle, WA 98104

Phone: 206-451-8260

Attorneys for Plaintiff